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C O N F I D E N T I A L SECTION 01 OF 04 CARACAS 001628

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TAGS: [ELAB](#) [ECON](#) [PGOV](#) [EINV](#) [VE](#)
SUBJECT: LABORING UNDER CHAVEZ' ECONOMIC PLANNING

REF: A. CARACAS 994

[1](#)B. CARACAS 861

[1](#)C. CARACAS 1031

Classified By: Economic Counselor Andrew N. Bowen for Reason 1.4 (D)

[1](#)1. (SBU) Summary: Since 2005 the BRV has tightened the noose around the Venezuelan private sector by steadily approving rigorous labor laws, including the Organic Law on Prevention, Work Conditions, and Work Environment (Lopcymat), a laundry list of nearly impossible to fulfill labor regulations. Chavez' impending Work Stability decree could make it illegal for the private sector to fire or transfer its employees without government permission. The BRV's new labor laws and regulations slash at the private sector's bottomline, partially contributing to the 26 percent drop in the number of manufacturing jobs over the past nine years even during an economic boom. Labor laws being debated in the National Assembly would reduce the work week, institute socialist indoctrination classes, and create worker councils, suggesting even greater state interference and deterioration of the private sector and further marginalization of trade unions in the near future. End Summary.

Lopcymat Swings BRV Labor Laws from One Extreme to Another

[1](#)2. (U) The 2005 Organic Law on Prevention, Work Conditions, and Work Environment (Lopcymat), implemented in 2007, instituted many changes to Venezuelan labor law. It redefined work place accidents to include those occurring to employees on their way to and from work and making businesses liable for contractors' accidents. It also created the National Institute for Occupational Prevention, Health, and Safety (INPSASEL), a monitoring and regulating agency that can close businesses and impose severe fines.

[1](#)3. (U) Under Lopcymat, employers must set up employee-led Occupational Safety and Health Committees that submit periodic reports on work place conditions to INPSASEL. Businesses must jointly file with the committee a safety and health program describing policies to reduce accidents, pass INPSASEL inspections, and keep an updated registry of all occupational safety and health incidents. If an accident occurs, under this law, an employer must notify INPSASEL within 60 minutes, file a preliminary report to the employee union and Safety and Health Committee within 12 hours, and write up a formal report to everyone within 24 hours. Lopcymat also drastically increases fines (there are 18 pages discussing sanctions) and employers can also face criminal charges for violating this law.

14. (C) According to Manuel Diaz Mujica (strictly protect), a Baker & McKenzie labor lawyer, Lopcymat has taken Venezuelan law from one extreme to another, explaining that before Lopcymat workers received very little protection and laws were rarely enforced. With Lopcymat, employers are now nearly automatically at fault for any accident. He explained that with all the bureaucracy and regulations, it is nearly impossible for businesses to fully comply with Lopcymat, adding that INPSASEL has nearly complete discretion enforcing this law. Although Diaz has not observed INPSASEL being used for political ends against companies, he believed that Lopcymat was only being enforced in the private sector, noting state oil company PDVSA would otherwise be out of business.

15. (C) Miguel Perez Aba, president of Fedeindustria (a pro-Chavez business association representing small to medium sized industrial companies), told the media that Lopcymat primarily affects the industrial sector because creating safety committees, risk manuals and other technical norms imply time and resources. Former Bristol-Myers Squibb government relations manager, Juan Garnica, told EconOff that between the BRV currency exchange body, Cadivi, and new labor legislation, he was forced to hire people full-time to ensure that they were complying with the new laws. The CEO of Marsh Venezuela, C.A. told EconOff that he had 8 people on staff to ensure compliance. Even businesses with as few as five employees must setup committees and fulfill Lopcymat's bureaucratic requirements.

Labor Laws Slashing Profit Margins

16. (C) Auturo Guevara, President of the VENAMCHAM human resources committee, told EconOff on August 7 that there have

CARACAS 00001628 002 OF 004

been 20 labor laws passed since August 2005. Besides Lopcymat, Guevara said that the Unemployment Benefit Law, the Housing Loan Law, the Worker's Nutrition law, the Anti-drug law, the Obligatory Social Service law, and the Integration of Disabled People law all reduce profitability and competitiveness. Victor Maldonado, executive director of Conindustria (the Commercial, Industry and Services Association), told EconOff that he viewed these laws as another tax to support Chavez' social system. Employers contribute an equivalent of two percent of employees' monthly salary to a housing fund per the Housing and Loan law, provide food stamps or cafeteria meals for workers making less than USD 857 a month per the Nutritional law, and must invest one percent of yearly profits for anti-drug programs per the Anti-Drug law. The Obligatory Social Service law requires employers to set aside five hours a month for employee community service and the Integration of Disabled People Law requires five percent of the employees in every company to be disabled.

17. (U) Besides also requiring business to contribute an amount equivalent to two percent of each workers' salary to an unemployment fund, the Unemployment Benefit Law created the National Job Institute (INEM) to oversee employment and created Local Labor Observers to act as an early warning system to prevent a fall in production capacity due to closure or "transformation of a business." Businesses must report to the INEM or the Local Labor Observers any changes to corporate officers, company addresses, or any other required information. This law also institutionalized the principle that if there are any doubts over interpretation of the law, a court should favor the worker.

18. (SBU) To receive foreign exchange for imports, a firm must receive a labor certificate (solvancia laboral), certifying the firm is complying with all the aforementioned labor laws. To receive a labor certificate, an enterprise cannot have a single outstanding labor complaint against it (Reftel A).

This requires approval from nearly every level of the government bureaucracy charged with monitoring labor laws. Multiple contacts have told us that organizations such as INPSASEL, INEM, and the Ministry of Labor and Social Security lack the infrastructure to process labor certificates in a timely manner, causing long delays in receiving much sought after foreign exchange.

Bolivarian Job Security

¶9. (U) On July 25 the BRV announced that the Supreme Court (TSJ) was in the final process of revising Chavez' Work Stability Organic Law/Decree. This law would make it illegal to fire or transfer any employee working in the private sector who had worked for more than three months without government authorization from the Inspector of Labor. The Work Stability law does not apply to the public sector or businesses with less than 20 workers. It also exempts managers, temporary workers, domestic workers, professional athletes, and intellectuals. Businesses failing to abide by this law would face a fine between 20 and 300 tax units (USD 350 to 5250) for every active worker, meaning an establishment with 100 workers would pay a fine up to USD 525,000 for firing one worker. This law also creates another committee, named the Committee for Support, Mediation, and Conciliation which consists of the employer, a worker, and a Ministry of Labor and Social Security representative. Each member will write a report to the Labor Inspector and the inspector will then decide whether the employer is entitled to fire the employee. This law would supplement the Labor Immobility Law that made it illegal to fire anyone making less than USD 857 per month.

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The Proletariat Strikes Back with More Councils

¶10. (SBU) Given its vagueness and potential to drastically alter employee-employer relations depending on how it is enforced, the Worker Council Law, still in its first reading in the National Assembly, has our business contacts very worried. Our union contacts are also concerned that worker councils will take over functions that trade unions currently have. The draft version of this law permits current and former workers to organize work councils, assemblies, and smaller committees to exercise real and effective "social control" over private and public enterprises. According to this law, worker assemblies will approve and present plans and projects to management on innovations, production,

CARACAS 00001628 003 OF 004

efficiency, administration, and work conditions. The work councils will also monitor and evaluate how management meets legal and labor obligations and will have access to all accounting information to prevent the paralysis or closing of a plant for "speculative" reasons. It is very unclear in the draft law exactly how much power these councils and assemblies will yield in the end, however, the guiding principles of the worker councils are "class unity, solidarity, and the fight for liberation against all exploitation."

Apparently the New Man Works Less

¶11. (U) Besides increasing the minimum wage by 20 percent in May to USD 286 a month (Reftel B), Chavez declared his intention to reduce the Venezuelan work week from 42 hours to 36 hours (with a maximum of six hours daily) by 2010. Chavez has also floated the idea of requiring companies to set aside four hours a week for workers to attend optional classes on socialism. Although few details have been announced on these classes, the state-run Bolivarian News Agency (ABN) reported

that during the trial phase the classes will teach "the evolution of Venezuela" and "historical materialism," a Marxist approach to the study of history, economics, and society.

The Disappearing Industrial Sector

¶12. (SBU) According to statistics from Conindustria, the Venezuelan industrial association, and the National Institute of Statistics (INE), the number of manufacturing jobs in Venezuela has decreased from 449,636 in 1998 to 331,033 jobs in 2007, a 26 percent drop. Interestingly, the number of jobs in small industries consisting of 20 or less employees have fallen even more dramatically from 93,879 jobs in 1998 to 49,418 in 2005, a 47 percent reduction in jobs. In comparison, large industrial concerns with 100 or more workers have only experienced a 20 percent reduction. According to Conindustria, the overall number of manufacturers has fallen from 11,117 in 1998 to 6,756 in 2005. (Note: INE stopped releasing manufacturing statistics in 2003. End Note.)

BRV Unemployment Numbers Provide Plausible Deniability?

¶13. (SBU) Chavez has used his social missions and the expansion of the public sector to help mitigate the loss of jobs in the industrial sector. (Note: According to the INE, the number of public workers in Venezuela has climbed from 1.4 million in June 1999 to 2 million in June 2007, a 43 percent increase over the last eight years. End Note.) As reported in reftel C, the BRV's unemployment statistics are highly suspect; INE considers anyone working at least four hours or participating in a government funded social mission as "employed." This has contributed to official unemployment dropping to 8.3 percent in June from 9.7 percent during the same month a year earlier. However, according to INE, the unemployment rate for the poorest part of Venezuelan society has increased from 14.9 in 2005 to 20.6 percent in 2006, a surprising increase considering the amount of time Chavez spends showcasing his concern for the plight of the poor. Also, approximately 45 percent of Venezuelans work in the informal sector, without job security, health care, or the other benefits that accrue to salaried employees (Reftel C).

Comment

¶14. (C) The BRV's growing regulation of the labor sector has focused on weakening private industry and increasing government control. Industry representatives are very pessimistic about the direction of future labor "reform" and anticipate that the new laws will further reduce productivity and profitability. Bolivarian institutions have nearly full discretion in enforcing often ambiguously worded labor laws, and since full compliance is nearly impossible, many contacts agree that targeted enforcement of labor laws could be used as a quiet way to cripple strategically important companies before expropriation. Although the official unemployment rate has fallen and people with jobs have better safety nets, the Venezuelan private sector is ill-prepared for any economic downturn. With the new labor laws, businesses have

CARACAS 00001628 004 OF 004

less of an incentive to hire more workers and less ability to adjust during hard times, making the impact of any economic downturn even more severe.

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